

Translation

PATENT COOPERATION TREATY

PCT/JP2003/010946



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 02P01270PC	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/JP2003/010946	International filing date (day/month/year) 28 August 2003 (28.08.2003)	Priority date (day/month/year) 05 September 2002 (05.09.2002)
International Patent Classification (IPC) or national classification and IPC C12Q 1/04, G01N 33/48, 33/483		
Applicant FUJI ELECTRIC SYSTEMS CO.,LTD.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>3</u> sheets, including this cover sheet.  <input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).  These annexes consist of a total of _____ sheets.
3. This report contains indications relating to the following items:  I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application

Date of submission of the demand 18 November 2003 (18.11.2003)	Date of completion of this report 16 August 2004 (16.08.2004)
Name and mailing address of the IPEA/JP	Authorized officer
Facsimile No.	Telephone No.

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/JP2003/010946

## I. Basis of the report

### 1. With regard to the elements of the international application:\*

- ☒ the international application as originally filed
- ☐ the description:  
 pages \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the claims:  
 pages \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, as amended (together with any statement under Article 19  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the drawings:  
 pages \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the sequence listing part of the description:  
 pages \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

### 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item. These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

### 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

### 4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/fig \_\_\_\_\_

### 5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International Application No.

PCT/JP03/10946

## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

### 1. Statement

Novelty (N)	Claims	1-6	YES
	Claims		NO
Inventive step (IS)	Claims		YES
	Claims	1-6	NO
Industrial applicability (IA)	Claims	1-6	YES
	Claims		NO

### 2. Citations and explanations

Document 1: JP, 2001-91822, A (Olympus Optical Co., Ltd.), 6 April, 2001 (06.04.01)

Document 2: JP, 2002-142797, A (Nitto Denko Corp.), 21 May, 2002 (21.05.02)

Document 3: US, 2001-0033414, A1 (Matsushita Electric Industrial Co., Ltd.), 26 October, 2001 (26.10.01)

Document 4: WO, 00-46590, A1 (Biometric Imaging Inc.), 10 August, 2000 (10.08.00)

#### Claims 1-6

The subject matters of claims 1-6 do not appear to involve an inventive step in view of documents 1-4 cited in the ISR.

Document 1 discloses that in an incident-light fluorescence microscope for observing fluorescence produced by exciting a fluorescent reagent with which a biomedical tissue or a biological cell is dyed, a transmission lighting means is provided on a side facing an object lens and rays having a longer wavelength than that of observed fluorescence are projected to a sample by the transmission lighting, focusing automatically based on an observation image thereby obtained.

Document 2 discloses that after press-fitting an adhesive layer of an adhesive sheet for microbe testing, which contains a non-water-soluble polymer compound as the main ingredient and is provided on a base member, onto the surface of an object to be examined and peeling it off to collect microbes, the microbes are detected by bringing an aqueous solution containing a coloring material capable of dyeing microbes into contact with the surface of the adhesive layer.

Document 3 discloses a biochemical matter observation method for observing, from the outside, a biochemical matter sticking to the inner side of a transparent surface provided in a container by using an observation device equipped with an optical system; characterized by including a) a process of putting the biochemical matter into the container provided with a focusing mark, which serves as a reference when the optical system is positioned to focus on the inner or outer side of the transparent surface to which the biochemical matter adheres, b) a process of focusing the optical system on the focusing mark before observing the biochemical matter adhering to the inner side of the container by using the optical system, c) a process of focusing on the position of observation by moving the focus of the optical system by the amount of the focus shift equivalent to a previously obtained distance between the position of the focusing mark and a desired position of observation, and d) a process of observing the biochemical matter by using the optical system.

Document 4 discloses that in an assay based on fluorescence, in order to automatically focus on a target layer included in a microplate well, a reference point on the lower side of the microplate is sensed optically and that the target layer has a spot which is in a predetermined relation to the reference point, which is used to focus rays on the target layer in the microplate well.

Documents 1 and 2 belong to the same technical field of assay by means of a fluorescence microscope, and it could have been easily conceived of by a person skilled in the art that after press-fitting an adhesive layer of an adhesive sheet for microbe testing, which contains a non-water-soluble polymer compound as the main ingredient and is provided on a base member, onto the surface of an object to be examined and peeling it off to collect microbes, that the surface of the adhesive layer with which an aqueous solution containing a coloring material capable of dyeing microbes is brought into contact, is used as a sample.

In the above-mentioned process, taking the description of documents 3 and 4 having the same problem of accurate and prompt focusing in a microscope as that of document 1 into consideration, a person skilled in the art could have easily conceived that after providing a focusing mark in a part of the base member and focusing on it, not on the surface on which microbes are collected, the focus is moved by the amount of the focus shift.